

REMARKS

This is in response to the Office Action mailed January 23, 2006.

Claims 5-8 have been canceled, without prejudice.

Claims 1, 3, 4, 9 and 11 to 14 are pending.

As noted in Applicants November 23, 2005 response, Applicants have elected "Invention I" (claims 1, 3, 4, 9, 11 to 14), in response to the Restriction Requirement. Claims to "Invention II" (claims 5 to 8) have been canceled without prejudice.

The Examiner has rejected claims 1, 3, 9, 12 and 13 under 35 U.S.C. 102(a) as being anticipated by Li (Paper I); claims 1, 9, 11 and 14 as being anticipated by Sun (Paper II); and claim 4 under 35 U.S.C. 103(a) as obvious over Li in view of Bate and Ghandi. The applicant respectfully traverses these rejections.

It is submitted that papers I and II are not citable under 35 U.S.C. §102(a)/§103.

Applicants submit herewith a Declaration pursuant to 37 CFR 1.132, by inventor Zhiqing Li. As the Declaration indicates, co-inventors Li and Sun are the co-authors of each of papers I and II. Co-inventor Ping Shum is not listed as an author in any of the papers. However, as the Declaration further reveals, inventor Shum has contributed to claims 12 to 14 of the application and the ideas disclosed in each of the papers as they are related to claims 12 to 14. Inventor Shum was not listed as an author in the papers because he did not contribute to the technical details discussed in the papers. Therefore, it is submitted that neither of papers I and II is a printed publication "by others" under 35 U.S.C. 102(a) (see MPEP 2132 and *In re Katz*, 687 F. 2d 450, 215 USPQ 14 (CCPA 1982)). In addition, as the Declaration reveals, paper I was first published on December 8, 2002, and paper II was first published in 2003, both within one year of the filing date of the present application. In *In re Katz* the court has held that a publication occurred less than one year before the filing date of an application comes within the scope of §102(a) only if the description is not of the applicant's own work. As evidenced by the Declaration,

the cited papers I and II both describe the applicants' own work.

In view of the foregoing, it is believed that this application is now in condition for allowance. Favourable reconsideration is therefore respectfully requested.

Respectfully submitted,

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April 24, 2006
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